

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 9-22-15

-----X  
DONNA DAVENPORT o/b/o D.W.P.,

14 Civ. 2734 (WHP)

Plaintiff,

ORDER

-against-

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.  
-----X

WILLIAM H. PAULEY III, District Judge:

Plaintiff Donna Davenport, on behalf of her minor child, D.W.P., filed this action seeking review of the final decision of Administrative Law Judge Brian W. Lemoine (the “ALJ”), denying Plaintiff supplemental security income benefits under the Social Security Act on the ground that D.W.P.’s impairments do not constitute a disability. On October 14, 2014, the Commissioner moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure to affirm the ALJ’s final decision. On October 22, 2014, Plaintiff opposed the Commissioner’s motion.


By a Report and Recommendation dated August 20, 2015 (“the Report”), Magistrate Judge Henry B. Pitman recommended that this Court deny the Commissioner’s motion for judgment on the pleadings and remand the case for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). Neither party has objected to the Report.

This Court has reviewed Magistrate Judge Pitman’s thorough Report and finds that it is not facially erroneous. This Court affirms and adopts it. Accordingly, the Commissioner’s motion is denied, and this case is remanded for further administrative proceedings before the ALJ to develop the record in accord with the Report.

The Clerk of the Court is directed to close this case.

DATED: September 22, 2015  
New York, New York

SO ORDERED:

  
WILLIAM H. PAULEY III  
U.S.D.J.

*Copy to:*

Magistrate Judge Pitman

Joseph Anthony Pantoja  
U.S. Attorney's Office, SDNY  
86 Chambers Street  
New York, NY 10007

Donna Davenport  
20 Stefanyk Rd.  
Glen Spey, NY 12737  
*Plaintiff Pro Se*